



January 27, 2009

## Non-Economic Concerns of the Democrat “Stimulus” Bill

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### Status

On Wednesday, January 28, 2009, the House will vote on H.R. 1, the American Recovery and Reinvestment Act of 2009. In response to numerous requests from Members and staff for more information on the many non-economic policy concerns, many of which are divergent from past precedent, the Conference has prepared the following document.

### Policy Concerns

#### **Private and Religious Schools Excluded**

Among the increases in “green schools” funding and other education spending included in the stimulus package, there is language that restricts any funding provided under the bill from going to higher education institutions “in which a substantial portion of the functions of the facilities are subsumed in a religious mission”—effectively restricting any private or religious school from receiving any funding under this bill. The bill also affirmatively excludes funds for higher education institutions used for “sectarian instruction, religious worship, or a school or department of divinity.”

Furthermore, all of the language describing the use and purpose of state stabilization funds for K-12 schools speaks of funding for public schools, including charter schools, but not religious and other private schools. Section 13011 of the bill states, “No recipient of funds under this title shall use such funds to provide financial assistance to students to attend private elementary or secondary schools.” Exclusion of parochial and nonpublic schools has implications that go beyond just the unprecedented exclusion of organizations of faith and principle (current law allows these schools to receive funding under numerous education programs). Specifically, this exclusion has serious implications for the future of school choice, setting a precedent that no funds can be granted to a parochial or nonpublic school. It also has serious implications for the Individuals with Disabilities Education Act (IDEA) and some schools that educate students with disabilities. IDEA statute requires that a child must be educated by the school system, even if doing so requires them to pay for the child to be educated at a private school. Under this “stimulus” bill, no funding would be available for any private institutions who are currently educating students under the IDEA, therefore negatively affecting students with disabilities attending such private schools.

A recent minority report published by the Committee on Education and Labor Republicans states, “The economic stimulus package, which would prohibit states and school districts from using funding under the bill to educate students with disabilities in private school settings, jeopardizes

the fundamental and basic tenet of IDEA, which is to ensure that all students with disabilities, regardless of where they attend school, are entitled to the same high quality elementary and secondary education as their peers. The provision is a major reversal in the federal government's effort to ensure that services are provided to students with disabilities and one that should be removed from the package."

### **Contraceptives as Stimulus**

Included in the House stimulus bill is a boon to family planning clinics across the country, including Planned Parenthood. According to research and reports done by the Government Accountability Office, Planned Parenthood already receives more federal money from Medicaid family planning than any other federal program (including Title X of the Labor, Health and Human Services Appropriations). In a 2008 [Guttmacher Institute study](#), it was identified that Medicaid spends over \$1.3 billion on family planning and contraception yearly. Planned Parenthood receives a huge portion of that funding.

This gift to organizations like Planned Parenthood is achieved by amending the definition of a benchmark state Medicaid plan to include family planning services for individuals with incomes up to the highest Medicaid income threshold in each state. The bill also permits states to establish "presumptive eligibility" programs for family planning services, which would allow Medicaid-eligible entities—including Planned Parenthood clinics—to enroll individuals in family planning services and "medical diagnosis and treatment services" connected with a family planning service, subject to a later determination of eligibility.

Some Members may be concerned that these changes would, by altering the definition of a benchmark plan, undermine the flexibility that Republicans established in the Deficit Reduction Act to allow states to determine the design of their Medicaid plans, and would expand the federal government's role in financing family planning services. Some Members may also be concerned that the presumptive eligibility provisions would enable wealthy individuals, as well as minors, to obtain free family planning services—and potentially other health care benefits—financed by the federal government, based on a certification by Planned Parenthood or other clinics. Furthermore, some Members may question the "stimulus" behind this family planning expansion, the effects of which on economic growth and recovery would be minimal at best. In a January 25th press release, Republican Leader John Boehner (R-OH) stated, "How can you spend hundreds of millions of dollars on contraceptives—how does that stimulate the economy?"

Some Members may also be concerned that this family planning expansion would allow Planned Parenthood (who recently laid off a large portion of their executive staff) the ability to rehire employees. It is likely that an increase in the Medicaid family planning budget through the stimulus could directly increase Planned Parenthood's budget—allowing the nation's largest abortion provider to re-staff.

Speaker Nancy Pelosi (D-CA) made the following comments about the provision during a Sunday afternoon interview, "... The family planning services reduce cost ... part of what we do for children's health, education and some of those elements are to help the states meet their financial needs. One of those—one of the initiatives you mentioned, the contraception, will reduce costs to the states and to the federal government."

**\*\*According to recent press reports, these contraception provisions may be removed from the stimulus.\*\***

### **Parental Authority Ignored**

Nothing in the “stimulus” bill protects the rights of parents to be in control of their minor children’s health care. In particular, the Medicaid expansion undermines parental authority by expanding contraceptive funding for individuals who will be presumed eligible for free services (namely minor children). A child would be eligible to receive benefits through a “presumptive eligibility period,” without parental knowledge that he or she applied for Medicaid. During the Energy and Commerce Committee mark-up of the stimulus bill, Rep. Joe Pitts (R-PA) offered an amendment which would have required that any entity offering family planning services to a minor who is presumptively eligible for medical assistance under a state plan must first notify the parent or guardian of that minor. The amendment included an exception which would have protected a minor who was a victim of abuse, requiring that the appropriate authorities be contacted. The amendment was defeated in Committee.

### **Essential Abstinence Education Funding Eliminated**

The bill extends for 18 months—through December 31, 2010—the Transitional Medical Assistance (TMA) program that provides Medicaid benefits for low-income families transitioning from welfare to work. Traditionally, the TMA provisions have been coupled with an extension of Title V Abstinence Education funding during the passage of health care bills. However, the Title V funds were excluded from the bill language and will expire on July 1, 2009 absent further action. Given the Obama Administration’s desire for bipartisan agreement on economic stimulus provisions, some Members may be concerned by the removal of the Title V abstinence education funding and the potential end of this program. Some Members may be concerned that while abstinence education receives only \$176 million annually (through both Title V and the Community Based Abstinence Education program), contraceptives and family planning, already receive \$1.6 billion of federal funding. Furthermore, some Members may be concerned with pulling the plug on education which encourages responsible behavior for children, while the underlying bill expands the federal government’s subsidization of contraceptives.

### **Increased Funding for Centers for Disease Control Programs**

The bill also includes \$335 million for sexually transmitted disease (STD) education and prevention programs at the Centers for Disease Control and Prevention (CDC). In the past, the CDC has used this STD education funding for programs that many Members find objectionable and arguably unrelated to a mission of economic stimulus. According to the Republican Whip Office, “In order to control and prevent sexually transmitted diseases (STDs), CDC used its budget for the following purposes: A transgender beauty pageant in San Francisco that advertised available HIV testing; Funded an event, also put on by the Stop AIDS Project, called “Got Love? – Flirt/Date/Score” that taught participants how “to flirt with greater finesse”; Funded events called “Booty Call” and “Great Sex” put on by an organization that received \$698,000 in government funds.”

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